

listed at the bottom of the substitute declaration. In light of the submission of this substitute declaration, application requests that the objections to the declaration be withdrawn.

At paragraph 4 of the outstanding Office Action, the Examiner has rejected claims 53-143 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-52 of U.S. Patent No. 5,946,664 in view of Roskowski et al. (U.S. Patent No. 5,624,316). Applicant submits concurrently herewith a Terminal Disclaimer disclaiming the terminal portion of the present application over U.S. Patent No. 5,946,664. In light of this submission, Applicant respectfully requests that the rejection of claims 53-143 under the judicially-created doctrine of obviousness-type double patenting be withdrawn.

At paragraph 5 of the outstanding Office Action, the Examiner has requested amendment to claim 213 changing "is note" to --is not--. Applicant has made the amendment as requested by the Examiner and therefore requests that the rejection to this claim be withdrawn.

At paragraphs 6-8 of the outstanding Office Action, the Examiner has set forth various rejections of claims 266-283. Applicant has cancelled these claims and therefore request that the rejection of these claims be withdrawn as moot.

Applicant notes with appreciation the Examiner's indication at paragraph 9 of the allowance of claims 144-235.

This is in response to the Examiner's Statement of Reasons for Allowance, which accompanied the Office Action of June 6, 2002. To the extent the Examiner's Statement of Reasons for Allowance states, implies or is construed to mean that the claims are allowable over the prior art of record because the Examiner believes the claims should be interpreted to include one or more features or limitations not recited therein, Applicant's attorney disagrees with such an interpretation. Moreover, it is Applicant's contention that there is no particular limitation in

the allowed claims that is more critical than any other. The issuance of the Examiner's Statement of Reasons for Allowance should not be construed as a surrender by Applicant of any subject matter. It is the intent of Applicant, by his attorney, to construe the allowed claims so as to cover the invention disclosed in the instant application and all equivalents to which the claimed invention is entitled.

CONCLUSION

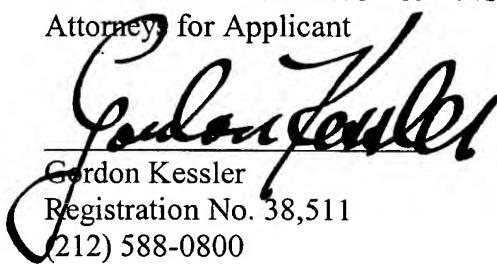
Applicant has made a diligent effort to place claims 53-143 in condition for allowance and notice of the allowance of these claims in addition to claims 144-235 is respectfully requested. If the Examiner is unable to issue a Notice of Allowance regarding these claims, Applicant respectfully requests that the Examiner contact the undersigned attorney in order to discuss any further outstanding issues.

Early and favorable consideration are respectfully requested.

Respectfully submitted,

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ATTACHMENT

Version With Markings Showing Changes Made

IN THE CLAIMS:

Claims 266-283 have been cancelled.

Claim 213 has been amended as follows:

--213. (Amended) The method of claim 206, wherein said step of transmitting is carried out by transmitting an executable program with the advertising data when the executable program is [note] not stored at said apparatus for executing an executed program.--